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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,015	10/03/2001	Paul Vegliante	2112-342.1 US	2684

7590

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EXAMINER
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HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

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DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/970,015

Applicant(s)

VEGLIANTE ET AL.

Examiner

Isaac N Hamilton

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-23 and 35-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-23, 35-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because figure 1 has several lead lines with no reference numbers; figure 2 has several reference numbers that are cut-off on the left side of the drawing. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. Although applicant states that a proposed drawing correction for figure 1 was submitted with the response filed 02/02/2004, there is no drawing correction in the response, thus the objection still stands. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. Rejections made under 35 USC 112 are hereby withdrawn.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-15, 19, 20, 22, 23, 35, 37-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Castelli (3,199,394). Castelli discloses rail base 13 and 14; pair of rails 26 and 27; channel; 28; blade housing 12; upper portion 31, 35; lower portion 29; blade 33; bottom edge of

Art Unit: 3724

housing 35 in figure 5; first and second materials are not excluded from being the same material because the characteristics are the same; first and second materials can be the same material combined from different sources which is inherent in the manufacture of polymers; end surface is rounded and inclined upwardly in figure 5; lower portion slidably moving in the channel in column 3, lines 31-45; an attractive is provided to the film because the rails are made of plasticized polyvinyl chloride, which inherently holds a charge that provides a clinging force. Evidence that polyvinyl chloride provides a charge and a clinging force is shown in sections 16.1-16.4 of Boston University's Physics web page. Regarding other claims note, polyvinyl chloride has a shore A hardness; PVC is another name for polyvinyl chloride; the method of how the apparatus is made, such as extrusion or injection molding, does not further limit the structure; the term "plasticized" means that a material is flexible; PVC has a smooth, non-porous surface and lubricity is provided by the smooth surface; the bottom edge of housing 35 is angled in figure 5; tracking device 29; tubular base 29; middle portion 32; cavity 11 has tubular shape; rubber is adapted for a molding technique in order to be formed into a desired shape as disclosed in column 1, lines 55-59 of Castelli.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3724

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castelli in view of Larson (4,202,233). Castelli discloses everything as noted above, but does not disclose a housing made of acetal. However, Larson teaches housing 68 made of acetal in column 3, lines 35-49. It would have been obvious to provide a housing made of acetal in Castelli as taught by Larson in order to reduce sliding friction.

7. Claims 17, 21 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castelli in view of Wilson (3,552,614). However, Castelli discloses everything as noted above, but does not disclose an adhesive layer. However, Wilson teaches an adhesive layer in column 3, lines 44-45. It would have been obvious to provide an adhesive layer in Castelli in view of Wilson in order to provide a means to mount the apparatus in Castelli on a wall or cupboard in order to save counter space in a kitchen or working space in a factory.

8. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castelli in view of Keene et al (277,760), hereafter Keene. Castelli discloses everything as noted above, but does not disclose a blade housing that snap fits into a protrusion. Keene teaches a blade housing 45 that snap fits into a protrusion 26 and 27. It would have been obvious to provide a blade housing that snap fits into a protrusion in Castelli as taught by Keene in order to prevent the movement of the blade while the apparatus is in transport or is attached to a moving door or table.

9. To the degree that tape cannot be called plastic wrap, claims 1, 3-15, 19, 20, 22, 23, 35, 37-38 and 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castelli in view of Chen (4,787,284). Castelli discloses rail base 13 and 14; pair of rails 26 and 27; channel; 28; blade housing 12; upper portion 31, 35; lower portion 29; blade 33; bottom edge of housing 35 in

Art Unit: 3724

figure 5; first and second materials are not excluded from being the same material because the characteristics are the same; first and second materials can be the same material combined from different sources which is inherent in the manufacture of polymers; end surface is rounded and inclined upwardly in figure 5; lower portion slidably moving in the channel in column 3, lines 31-45; an attractive is provided to the film because the rails are made of plasticized polyvinyl chloride, which inherently holds a charge that provides a clinging force. Evidence that polyvinyl chloride provides a charge and a clinging force is shown in sections 16.1-16.4 of Boston University's Physics web page. Regarding other claims note, polyvinyl chloride has a shore A hardness; PVC is another name for polyvinyl chloride; the method of how the apparatus is made, such as extrusion or injection molding, does not further limit the structure; the term "plasticized" means that a material is flexible; PVC has a smooth, non-porous surface and lubricity is provided by the smooth surface; the bottom edge of housing 35 is angled in figure 5; tracking device 29; tubular base 29; middle portion 32; cavity 11 has tubular shape; rubber is adapted for a molding technique in order to be formed into a desired shape as disclosed in column 1, lines 55-59 of Castelli. Castelli does not disclose plastic wrap. However, Chen teaches plastic wrap 2. It would have been obvious to provide plastic wrap in Castelli as taught by Chen in order to dispense a material with different characteristics and can be used to preserve food.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Castelli and Chen in view of Larson (4,202,233). The combination discloses everything as noted above, but does not disclose a housing made of acetal. However, Larson teaches housing

Art Unit: 3724

68 made of acetal in column 3, lines 35-49. It would have been obvious to provide a housing made of acetal in The combination as taught by Larson in order to reduce sliding friction.

11. Claims 17, 21 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Castelli and Chen in view of Wilson (3,552,614). However, the combination discloses everything as noted above, but does not disclose an adhesive layer. However, Wilson teaches an adhesive layer in column 3, lines 44-45. It would have been obvious to provide an adhesive layer in the combination as taught by Wilson in order to provide a means to mount the apparatus in the combination on a wall or cupboard in order to save counter space in a kitchen or working space in a factory.

12. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Castelli and Chen in view of Keene et al (277,760), hereafter Keene. The combination discloses everything as noted above, but does not disclose a blade housing that snap fits into a protrusion. Keene teaches a blade housing 45 that snap fits into a protrusion 26 and 27. It would have been obvious to provide a blade housing that snap fits into a protrusion in the combination as taught by Keene in order to prevent the movement of the blade while the apparatus is in transport or is attached to a moving door or table.

### ***Response to Arguments***

Applicant's arguments filed 02/02/2004 have been fully considered but they are not persuasive. Applicant asserts that Castelli does not disclose rails being formed of a material providing an attractive cling to plastic wrap. It is believed that the material in Castelli is the same material as the material defined in the claims. The limitations limit the material to plastic,

Art Unit: 3724

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 703-305-4949. The examiner can normally be reached on Monday thru Friday between 8am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

*IH*

IH  
April 19, 2004

*AS*

Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700





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